THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION No.13479 OF 2007

DATED: 12-07-2007

BETWEEN

N. Ashok, S/o. Satyanarayana,
Occ: Business, R/o. 1-9/2,
Nanakramguda, Serilingampally,
Ranga Reddy District.

...PETITIONER

AND

S.H.O. (Prohibition & Excise)
Rajendranagar, R.R. District
and two others.

...RESPONDENTS

ORDER:

Petitioner seeks a Writ of Mandamus to declare the action of the respondents in not returning the surety amount of Rs.30,000/- against the principles of natural justice and violative of statutory rules and to direct the respondents to return the surety amount.

2. The undisputed facts are that on a petition filed by the Prohibition and Excise, Station House Officer, Rajendranagar, with regard to the registration of Cor.No.780/20001/01 in seizing 3600 Kgs of jaggery and 20 liters of ID liquor transported in Eicher Van bearing No. AP 37 U 8137, the Deputy Commissioner of Prohibition and Excise, passed order in Cr.No.C4/1022/2001 dated 24.03.2005 confiscating 3,600 Kgs of Jaggery and 20 liters of ID Liquor seized in Cor.No.780/2000/01.

3. It is not in dispute that the petitioner obtained release of the said Jaggery as an interim custody by proceedings in Cr.No.C4/1022/2001 dated 28.06.2001 on furnishing an undertaking and two sureties. Unless the jaggery, which has been taken as interim custody is returned to the department the question of discharging the surety and undertaking does not arise. However, no material has been placed before this Court with regard to returning of confiscated jaggery of 3,600 Kgs, which was taken into custody as interim measure, pending confiscation proceedings. Therefore, I am of the opinion that the petitioner is not entitled for the return of surety as it is for the department to realize the value of the confiscated jaggery form the surety holders as well as from the petitioner.

The writ petition is accordingly dismissed. There shall be no order as to costs.

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V. ESWARAIAH, J

July 12, 2007
DSK